

*Judicial Branch Governance:
State of the Courts Nationwide*

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[transcript lightly edited for reading ease]

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Good morning everybody. Thank you Judge. I am probably more excited than anyone else in the room to be here. It was, I think, almost a decade ago that I attended these meetings regularly as a Presiding Judge in Sacramento or as a member of the Judicial Council and I recall that you never knew exactly what was going to happen in one of these things, you know it was always a little bit scary, it still is, (laughter). There were those who had their hopes and their objectives and their aspirations, but few had predictions for what was going to happen, but I remember that I always went away enriched and occasionally inspired by what had happened at this meeting and I am sure given the energy and leadership that has been put into this gathering, that you will also go away this year enriched, if not inspired.

My role this year is much different than it was then and I've been asked to try to provide a national perspective on the issues that confront you in California. So, what I'd like to do for thirty minutes or so is discuss the challenges and opportunities before you as you attempt to reengineer your governing processes in the California Judiciary.

I. Judicial Branch Governance—Key Concepts

First, let me take a few minutes and try to clarify some of the key concepts that we're working with. First, the concept of "Judicial Governance." What is "Judicial Governance"? The word governance comes from the Greek word meaning "to steer" and has over time come to mean to steer, to control, to exert influence over by virtue of authority. It really describes the distribution of authority in a system. In a legal system, in this case in the judicial system, it is not management. It is, in the vernacular, steering the boat, not rowing the boat. And equally important, the process of governing is a policy-making process; it's making rules that apply generally in general situations. It's not interceding on a case-by-case basis. Also important to remember is that governance is not an end in itself. The purpose of effective governance is not to improve relations with the legislature or to obtain more adequate funding for the court system. Those are consequences that may flow from judicial governance, but the purpose of effective

judicial governance, is to carry out effectively the purposes of the institution: the mission of the California Judiciary.

A. Judicial Independence

What is “Judicial Independence”? I think that judicial independence means freedom from undue or improper influence, from intrusion, or interference. We know that there are two kinds of judicial independence. There is the judicial independence that respects the judicial decision-making process in which the purpose is to insure that judges make decisions that are fair and impartial based solely on the fact and the law and are not influenced by any improper considerations or any improper influences. But there is another kind of judicial independence, that’s the institutional independence of a court, or a court system, or a judicial branch. And that’s the one I want to focus on a little bit more this morning because that is the judicial independence that is at stake when you talk about governance of the California Judiciary.

Note again that judicial independence is not an end in itself. There is no inherent good in having a bunch of judges who think they are independent from everyone else in the world. Judicial independence is a means to an end. The end in the case of judicial decision-making is impartial decision making. The end in the case of institutional independence is effective governing and management of the institution. Note also, that judicial independence of either kind is not unlimited. Judicial independence has boundaries. So with regard to institutional independence for example, the Judicial Branch is a co-equal branch of government, not a superior branch of government. There needs to be mutual respect and comity and cooperation among the branches.

Judicial independence is not isolation. Isolation always begets suspicion, and suspicion usually results in mistrust. And note the paradox also, that we have learned that the road to judicial independence is the road of judicial interdependence. It is through working effectively with others, engaging others and other branches in discussions about one’s mission, that one achieves independence.

The theory of judicial independence, the constitutional theory, the political theory of judicial independence, was never intended to apply to the relationship of one judge to another, of one judge to a court, of one court to another court, of one court employee to another court employee, of the relationship between a Supreme Court and a trial court, between a policy-making body for the Judicial Branch and Judicial Council and institutions and courts and judges within that branch. That’s not judicial independence. That has nothing to do with judicial independence.

It may have something to do with institutional independence of different institutions within the branch. It may have something to do with administrative independence or financial independence or even intellectual independence. But it does not have anything to do with judicial independence unless the relationship is really directly affecting the decisional independence of an individual judge, which is very rare. I don't know of a single case, in the reported cases of any State or the Federal government where there has ever been a claim of a breach of judicial independence by reason of another judge or court.

B. Judicial Accountability

What is "Judicial Accountability"? It is important to remember that accountability is the fundamental purpose of all democratic governments. The whole idea of democracy is that the governed will hold accountable those who govern. That those who govern are accountable to the people. That is the fundamental purpose of all democratic government. And the Judicial Branch is not immune from the responsibility of being accountable for its performance, just like officers of the other branches, to the people that we serve. The concept of accountability is an end in itself, unlike the concepts of governance and independence. Indeed the purpose of effective judicial governance and effective judicial independence is to ensure that the courts are able to be accountable for their own performance. There is an important relationship among these concepts.

In order to become independent, one must govern and manage effectively. In order to govern and manage effectively, one must maintain independence. It's a two-way street. There is a quid pro quo here. Charlie Brown once remarked, "we have met the enemy, and he is us." Many times the greatest threat to judicial independence is our own failure to perform effectively. We are in no position to complain about intrusions on our independence if we have not governed and managed our branch effectively.

The critical question is not whether we should be accountable; the question is how we should be accountable. What are the mechanisms of accountability? And for what should we be accountable? What are the standards by which we would want our performance measured? And it is critical that the Judicial Branch establish and communicate those standards because if we don't set our own standards for our own performance (what we expect to be accountable for), we can anticipate that others, outside the branch, will set their standards for what they expect from us and we will ultimately be held accountable, not for administering justice fairly and effectively, but for accomplishing other peoples objectives. So it's critical that we establish the mechanisms of accountability, it's critical that we establish the standards by which we would want to be held accountable and note that all of this ends up coming back to the mission of the courts.

The purpose of judicial governance is to achieve our objectives; our mission. The purpose of judicial independence is so that we can achieve our mission; fair and effective courts. And we will be held accountable if we do our job right, we will be held accountable for our success or failure in achieving our own objectives of administering justice fairly and effectively. So those are the basic concepts.

II. Judicial Branch Governance in California—A National Perspective

Now allow me from a national perspective to assess judicial governance in California in relation to judicial governance processes in other states and in the Federal Judiciary.

A. Inclusive Policy-Making Body

First here, and this is a little unusual, the statewide policy-making body for the Judicial Branch is the Judicial Council. In almost all states, except California and very few others, and in the federal government, the policy-making body is the Supreme Court. So your policy-making body compared to other states is much more inclusive, much more open, and your Judicial Council is charged in the Constitution with engaging in activities to improve the administration of justice. So you have, in comparison with other courts, an outstanding policy-making apparatus defined in the State Constitution.

B. Effective Planning Processes

On top of that at the branch level you have effective planning processes, you have control and responsibility over funding and resources for the Judicial Branch, you now have control over the facilities in which the work of the branch is conducted, and you have an emerging set of personnel policies and a statewide personnel system for those employed in the Judicial Branch. You have a unified trial court. All of these things are state-of-the-art in the field of judicial administration. So you have in comparison with the Federal Judiciary and other State Judiciaries, an unusually strong and effective branch government apparatus.

C. Tradition of Local Governance

But, until recently, you have had a long-standing tradition of governance at the local level. It has been at the trial court level that all the important decision making has taken place, in terms of judicial administration (for hundreds of years in California) until recently. And it is the judges of the trial court who collectively constitute the policy-making body traditionally, and I think still, for the trial court. It is the judges collectively of the trial court who appoint the presiding judge, or

elect the presiding judge, the leader, the governance leader of the court. Typically it is the judges of the court who appoint the court administrator, the chief executive officer, if you will, of the court, and in California, judges are elected. So the source of authority of the judge is election, and it is not a statewide election, it is a local election. So the trial judge's authority is derived locally, and all the important decisions were typically made at the local level.

D. Strength at the Local and State Level

In these respects, California is a very unusual prototype. This combination of having great strength at the State level and at the same time this tradition of great strength at the local level, this combination is somewhat unusual in the United States. There are many states that are totally unified where the state court administrator selects the trial court administrators, or approves them; where the Chief Justice appoints the presiding judges of trial courts; where a person hired as a courtroom clerk in Los Angeles, works for the state court administrator as part of one overall personnel system.

There are also states at the other extreme where the role at the state level is minimal. And you've got thousands and thousands literally of courts strewn throughout Georgia and Texas where everything is local. There really is no effective leadership or governance at the state level.

To have California's combination of this history of strength at the local level, combined with this emerging strength at the state level, is somewhat unusual. And overall I would say that nationally California is recognized as being among the most creative, innovative, diverse, progressive states in the Union in terms of judicial administration on the one hand. But on the other hand, I think it is also true that California is viewed nationally as not being a cohesive branch compared with other judicial branches across the country or even the Federal Judiciary, and that the performance of trial courts has historically been very uneven. Some trial courts have had remarkable and outstanding records of performance and others haven't or over time courts have waxed and waned in terms of the strength of their performance based, in part, on the strength of their leadership.

III. Judicial Branch Governance in California—Challenges and Opportunities

So if those are the principles and that's the context, what are the challenges and opportunities confronting the California Judiciary? Let me just look quickly first at the local level, then at the state level, and then challenges that confront California at both levels.

First of all I think it is important to say as the Chief said and as Bill said, that in times like this; in critical times, challenges are magnified. But it is also true that opportunities abound. The two go together. And it is also true that change is always precipitated by stress. Things don't change just by themselves. Things change because there is some catalyst; some provocation, some irritant. Something happens and it creates change. So change is not an option, the question is whether it can be changed for the better or changed for the worst. And that is the decision that is in your hands.

A. Local Level Challenges

1. Enhancing Judicial Administration Expertise

Now at the local level, the problem historically, is that, governance of the trial courts was in the hands of the trial judge. And all too often, and I say this as a trial judge for 20 years, trial judges often are or were unsuited for, unprepared for, unwilling to, unable to govern. And I think I wrote in my notes about this point that I should pause here while the court administrators in the room break into a round of applause and cheers, and all the trial judges walked out. (laughter) And I am sure I deserve that.

But let's be honest. I know first of all from just hanging out with court administrators that their greatest frustration, usually, is the feeling that they can't get their judges, especially in multi-judge courts, to govern. They can't get the judges to make a unified, bold, decisive, timely decision and stick with it.

And let's be honest about judges. How many of us who are judges aspire to be judges so that we can run an organization? How many of us thought we were joining the board of directors of an organization where, one of our principle responsibilities was going to be to make collective decisions with other judges about this institution. Or that we were to be in charge of an accountable court and hire a chief executive officer to carry out our policies effectively and hold that person accountable to us for our performance and be held, in turn, accountable to the people that elected us? None of us. We have all been drafted into this and like many draftees, we haven't always performed well.

2. Determining Accountability

And then the second challenge is where is the accountability in this? How many judges ever faced an electorate in a judicial election where the issue was the performance of the court as an institution or how well this judge worked with other judges to govern the court? I don't know of any judicial contest in which

that has ever been the issue. So there is no effective accountability; there is no effective accountability of trial judges for their performance historically, I think.

There is a lack of alignment between the authority and the lack of accountability. When the predominant source of funding came from local government, there was at least that line of accountability. The court did have to report to the county executive on the spending of county funds and show up before the Board of Supervisors and justify a county budget, but that's not true anymore.

So there is a challenge here. If trial courts are going to continue to govern in this new era, where are they going to find the resources to govern effectively and how are they going to be held accountable for their performance? Presumably with the advent of state trial court funding this will happen through the statewide planning, funding, and statistical gathering processes.

So how are we going to help trial judges learn how to govern more effectively? Learn how to think of themselves, not only as an individual judicial decision maker, but as a member of a board of directors of an organization that has to make corporate decisions? Where in our early judicial orientation programs, along with judicial ethics and other fundamental things, are we going to talk to trial judges about this part of their responsibility? And the opportunity to define, right now to define what do we expect of trial courts by way of governance? And how will they be held accountable? And for what will they be held accountable?

So then, similarly at the state level the responsibility here is to define the performance expectations. What is expected of those who govern at the state level and what is expected of those who govern at the local level? Is there a need for a statewide policy in a particular area? How specific should that policy be? Within how constrained a set of boundaries should local decision making take place? To what extent does the Judicial Council think that it is desirable to occupy the decision making space? To steer, control, and exert influence in that space. And to what extent does the Judicial Council decide that it's not desirable to occupy the space and to leave the space unoccupied thereby providing for local control and local variation. Those are critical issues. They were pretty critical issues when I was on the council ten years ago. Now there is imminence to all of this, an urgency to all of this that didn't exist ten years ago. So there are huge governance issues, I think, for the Judicial Council at the state level. And equally important is the need to reach agreement on how success is going to be measured, and I think this will be the ultimate; this is really the test. I would almost, if I were in the role of having to do some of this, I would almost back into it by saying let's first talk about how we're going to measure success. In other words from the trial courts point of view, what looks like success to you. And my guess is that if I were the

Chief Justice I could ultimately almost buy into that and say you got it--you do that--that looks like success to me too.

And at the trial level, what does success look like to you with regard to the performance of folks at the state level? What do you expect from those folks? How would you measure that success? If you could answer those questions (what does success look like), you will have begun to answer the questions of who is supposed to do what and who is going to be accountable for what? So reaching agreement on what the standards are, to whom we are all going to be accountable, and what the mechanisms are going to be, is the second challenge facing the State Judicial Branch.

3. Building Cohesion

The third one, I think, is building cohesion. This whole process is all about building cohesion; a sense of identity among all those involved in the Judicial Branch. Taking all of those pieces that traditionally viewed themselves as separate independent pieces and putting them into the puzzle so that they all fit together and those separate pieces now feel like they are a part of the greater whole. This has almost nothing to do with governance. This is cultural change. Building a sense of unity, a sense of common purpose among the participants. It is often said that we in the Judicial Branch need to speak with one voice. And true that is. But I think it is also true that whether the Judicial Branch speaks with one voice or not, is the dependent variable. That's the effect not the cause. If there is cohesion in the Judicial Branch, you will speak with one voice. If there is not cohesion, you won't. So the goal is to build cohesion. And I think there are some sub-challenges in terms of trying to build cohesion.

First of all there is what I refer to as the field office vs. the home office dynamic. Folks in the trial court are on the front line. There aren't too many litigants, you know, walking into the Judicial Council to have their case heard or jurors to serve on juries, or witnesses to testify. It's the trial courts where most of the work takes place and folks who work in the trial courts are on the front line dealing with what we would call the court customers; people that use, rely on, and interact with the courts.

And to people on the front line, someone who is not on the front line telling us how we on the front line should behave, is the same kind of feeling that I hear about from my employees at the National Center. You know when I send out some e-mail message about what I think we should do at the National Center and I'm not out there teaching classes, or doing research, or providing consulting, and the fact is that the people on the front line are the ones who are in touch with most of the customers. The people in the home office are more in touch with the

suppliers; you know the fun groups (laughter) and others. So that's the challenge because there is a reality there.

This has nothing to do with judicial independence but sometimes I think this gets couched as judicial independence. This has nothing to do with judicial independence; this is the home office vs. the field office kind of thing. It's true of any organization that has more than one office. And then there is an inherent conflict of authority for folks at the trial court level that needs to be acknowledged. Which is that they are inevitably being asked to serve two masters. Because it is not at the state level that they acquired their authority. They acquired their authority at the local level. It was the local electorate that elected them, not the state electorate. It was those judges that appointed them to be the trial court administrator, not someone at the state level. So to a trial court judge or a trial court administrator they got to where they are, they have the authority they have, and the position that they have, by virtue of local politics. Things happened at the local level, and that's where they live, that's where they work, that's where their kids go to school, and if you are elected public official, you stay in touch with other elected public officials. You are part of the local political scene if you are elected a public official, whether you are a judge or serve in one of the other two branches. So at the same time, the trial judges and the trial administrators that we are asking to govern that court have this problem of two masters. They have their local masters that they have to stay in touch with and they also have rules they have to follow. They have statewide rules, they have policies, their funding source, the planning, I mean all of these things are happening at the state level. So it's not an enviable situation. You would not go out of your way to set up an organization where an employee or an officer, let alone an executive, had to report to two different masters. So that needs to be acknowledged. There are challenges here.

Judges are professionals and like other professionals; doctors, lawyers, researchers, people with PhDs, they are in some ways ungovernable (laughter). They don't want to be governed. They don't want to be managed. That's why I became a judge, a lawyer, a doctor. So I could, you know, I wanted to do it my way; I wanted to succeed on my own. I didn't want someone else telling me how to do the surgery. I didn't want someone telling me how to best represent my client. I didn't want someone telling me how this research was supposed to come out or how this trial should end. That's who I am and all the psychological research shows that professionals are a little bit skewed in terms of their personalities and learning styles (laughter). Most of us are pretty individualistic in the way we approach things. Now, once again, this has nothing to do with judicial independence. This is intellectual independence. This is just knowledge workers, people that use their minds for a living, not wanting people telling them how to think or what to do. So that has to be acknowledged.

4. Managing Change Effectively

Finally, what we are talking about in the way of challenges is change management. There are some that will welcome the changes that are taking place. Many of you here, I think, do. But there are also many for whom this will feel like the rules are changing and they knew how to play and succeed and win under the old rules. But there will be a feeling for many of sort of a loss of power. That under the old system they felt a sense of self-confidence and power and self-esteem. They felt good about who they were, what they were doing and their ability to do it well. In a new era, they are just not so sure because they know that they are being asked to share power and they are not used to it, and they don't know how to do it and they are not sure if they can do it as well, and they don't know what the new rules of the game are. They don't know what the incentives are going to be and what the penalties are going to be.

This is true of any organizational change. This is true of a corporate merger, of an acquisition, of a reorganization. It's just that this is coming to the judiciary, maybe a century after it came to our private sector. This budget crisis, this financial crisis, hit our private sector what, three years ago. There isn't a corporation in America that hasn't already gone through this starting three years ago. Had to reengineer, reorganize. Go into bankruptcy. Lay people off. Come up with a new corporate scheme. We're just coming to this responsibility late. So there is the challenge of building trust in this environment in which people are fearful of losing power and authority.

And once again, I think this is more challenging for judges, maybe, than for administrators. I think for administrators as an organization person, as a person with responsibility to lead and manage organizations, there is I think a realization that this is what organizations are all about. The only way an organization succeeds and learns is by a process of continually reinventing itself; continuously improving itself. Change is a given for an organization's effectiveness and although it may involve personal challenges for the leader, CEOs come and go, the leader knows that the interests of the organization are superior to his or her own personal interest and will set aside his or her own personal interest in order to serve the organization. But we judges are typically not those sort of men and women: organization men and organization women. This is not our environment and so for us, I think, change is more difficult.

B. State Level Challenges

1. Balancing Engagement With Setting Direction

So finally, what challenges and opportunities are there at the state level? First, I think we have to employ a strategy of engagement as well as direction. The task at the state level is just to provide effective direction as part of this change process, which does have to happen, but it needs to be coupled with a strategy of engagement. Folks at the trial court level need to be engaged in this process. There is a wonderful book called “The Terms of Engagement,” which talks about how all of these change management processes all involve coming up with some “Terms of Engagement.” At the state level, the Judicial Council needs to maintain the open processes that it has; these inclusive processes. Participatory processes, processes that respect diversity, processes that recognize there is local variation. There are different ways of doing things. Unless this statewide planning process, this governance process is an open one, an inclusive one, a transparent one, a participatory one, it will not have the legitimacy that it needs to have in order to succeed.

C. State Level Opportunities

1. Finding Common Interests/Purposes

But there is an opportunity now because you are creating this new governance structure now so you can maintain and create that kind of a structure. There is an opportunity here to focus on common purposes. One way to focus on common purposes is not to think of our own needs as an employee or an individual as a court, but to look at it from the public’s point of view. How would the public’s interest be best served? How would the customer’s interest, in effect, be best served? If all these issues when they come up, if the first question some one wrote “What would be the best way to handle this from the public’s point of view”, if that is the first question that was asked, you would much more quickly arrive at consensus, I think, about how to address that issue than if the question is “OK now what do you think from a trial court perspective?” What do you think from a regional perspective? What do you think from a state perspective? By the way you are asking the question, you are creating the problem that you then are going to have to turn around and try to solve. But I also think that you can’t look at it just from the public’s point of view.

2. Engaging the People in the Branch

There is a wonderful book called “Nuts” that was written about the CEO of Southwest Airlines—a very successful corporation obviously—and he wrote a

book disdaining this whole customer service philosophy and said in my company I did not put the customers first, I put our employees first. And his insight was if you put your employees first and they feel honored, valued, trusted, empowered, they will put your customers first. They will communicate that. So, once again, the road to customer service, the road to serving the public has to be one that recognizes the legitimate concerns and needs and interest of the employees and meets those needs. Otherwise, you know, your employees are going to be dug in, holding on. You are not going to be able to move them, because they are going to be saying “wait a minute I hear everything you are saying, but wait a minute, how does that affect me?” So you need to answer that, you need to foresee how is it going to affect them and how we are going to address those concerns. What other changes do we need to make.

3. Using Merits and Incentives

Third opportunity: we talked about knowledge workers and judges as professionals. You can't beat these people into submission. You can't regulate these people. You can try, but the problem with judges and lawyers and all these other people is they're too smart. They can wiggle through all these little things. That's what lawyers get paid to do. They can wiggle around the rules. You are constantly in a regulation struggle. You are constantly trying to tighten down the rules to take care of this exception and that exception. And you will lose over time. You won't have the collective ingenuity of your advocates in this process, who are now adversaries. You've created adversaries. So don't over rely on regulation and penalties and prohibitions. Use merits and incentives. That's what works in America. That's what works in the private sector. People perform because it is in their interest to perform. They get paid to perform. They make money when they perform. They win when they perform. They out-compete when they perform. Their product gets to market faster; it's a better product. People buy it.

Now it's hard in the judiciary because we have a monopoly on what we do or did for the most part (until ADR I guess), but how can we build into the judicial branch, you know, competitive mechanisms. Make it OK for people to compete. Just that they are competing for good things. They are competing for a Distinguished Service Award. They are competing for a KLEPS Award. They are competing for a promotion. But build into people's job descriptions and employ performance evaluations in any way you can. Build positive incentives. And use peers. With professionals you can't use non-professional supervisors. Professionals learn from peers. Researchers talk to other researchers. Judges talk to judges. Lawyers talk to lawyers. Those are the people they are most open to. So use peers and try to move the branch forward.

4. Finding Win-Win Situations

And then, finally, finding win-win situations. Try to find ways that everyone comes out a winner or feels that they come out a winner. Avoid conflict. Avoid win-lose situations, which inevitably turn out to be lose-lose situations. Negotiate positively.

D. State and Local Level Challenge

1. Performing Effectively

Let me just close by talking a little bit about the challenges and opportunities that have effects at both the state and local level. First, we have to perform. We have to effectively govern and manage at whatever level. Roscoe Pound said in his famous 1906 address to the American Bar Association on the causes of popular dissatisfaction with the administration of justice, and he listed all these things that were wrong with the court system, as a former State Chief Justice, and he said one of the real problems is the mistaken notion that running courts is an easy task for which anyone is competent. And that seems to me, here we are what, almost 100 years later and I think it is almost equally true today.

The fact of the matter is running courts is not easy. And the second fact of the matter is not all of us are competent at doing it. And so the challenge is how do we perform effectively? How do we become good at governing and managing this branch of government?

E. State and Local Level Opportunities

1. Demonstrating That We Can Govern Effectively

But there are opportunities. We can demonstrate in these critical times—at this critical time, that we can govern, that we can manage, that we can run our business, and that we can do it successfully. We can demonstrate that we can continuously improve our own performance at both the state and local level. That we can reengineer our processes. Change the processes, break them, and put them back together again in a way that produces a better product, more quality, reduces cost. We can show people that we can do that. There is a special opportunity when resources are tight or constricted or limited. There is a special opportunity to do things you can't do in the so-called good times.

It was in this era ten years ago or so when I was Presiding Judge in Sacramento that we voluntarily consolidated. It was in this kind of a climate, that we consolidated our superior and municipal court voluntarily because we could go to

the county and say, “look what we did, we just saved you millions of dollars and it’s better.” And they said, “fine you don’t have to take any other budget cuts. And we went to the criminal justice agencies and we said, “you know if the county would allow you to get someone who could test drugs within 24 hours of arrest” that one employee at whatever (\$40,000 a year) is going to save us \$500,000 of transaction costs in the court system where we have to continue cases or it takes a while to get a case worked out because we don’t have the drug test results back yet.” So we started working on an inter-agency basis. We weren’t just looking at our budget in a vacuum, we were working with all the other players in the system to see the push and pull in the system. We didn’t have to do that in good times. In bad times, we had an incentive to do that.

2. Demonstrating That We Can Make the Hard Administrative Decisions

So there are special opportunities in this environment. There is an opportunity here to demonstrate that we can make the hard decisions. That’s part of the problem. We’re hard-decision averse. We need to demonstrate we can make the hard decisions. I’m not talking about the judicial decision, I think the judge is terrific at that. I’m talking about the administrative decisions. That we can do the employee performance evaluations. That we can deal with problem employees and problem judges. That we can do hiring and firing effectively. That we can do discipline. That we can reduce costs. That we can set priorities. That we can make the hard decisions and finally that we can make them in a timely manner.

This is a huge problem. I mean if decisions in any other organization I can think of took place at our pace, the patient would be gone. The game would be over. The business would be gone. We’d be out of businesses. You can’t take a year to make an administrative decision. You can take a year to adjudicate a case fairly and gather all the evidence and hear all the arguments. You might take a year to make an important policy decision at the Judicial Council. But if you are sitting out there on the front line, you cannot take a year to make a decision. You have to make timely decisions. You have to make decisions without all of the evidence. Without hearing all the arguments. The failure to make a timely decision will be much more injurious than making a quick decision that in 20% or 50% of the cases may be wrong. It’s more important to make it than that it be a perfect administrative decision. This is different than policy decisions and judicial decisions.

IV. Conclusion: Seize the Opportunities

So in conclusion, I think that by seizing the opportunities that we have, that demonstrating that we do have the ability to govern and effectively manage the branch, we can as a judicial branch, not only in California, but in other states

across the country, truly strengthen our own judicial independence and better carry out our mission to fairly and effectively administer justice.

Thank you very much.....(applause)